



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

on the one side, and the case of *Alexander vs. Pennsylvania Co.*, 48 Ohio State, 623, 637, on the other.

In American constitutional law also the question has proved to be practical. The Constitution of the United States says that "no state shall pass any *law* impairing the obligation of contracts." If now the obligation of a contract be impaired in a state, not by its written law, but by a novel interpretation placed upon the written law by the state judiciary, is the new interpretation a "law"? The Supreme Court of the United States has answered the question in the affirmative.¹

In enumerating the instances of the acceptance of Roman rules by English courts (p. 325 *et seq.*) it may perhaps be urged that, in view of the rarity of such cases, the author might have added *Bechervaise vs. Lewis*, 7 C. P. 372, 378. In this case (as in *Acton vs. Blundell*, 12 M. and W. 334, 353, which the author cites) there was a direct quotation from the *Digest* of Justinian.

Judge Dillon and Sir Frederick Pollock are both advocates of a well-considered and gradual codification; but both fail to note how the question is complicated in this country by the fact that the federal Congress cannot do the work, and that, if done, it must be done by the state legislatures. In codifying the common law, England exchanges one form of national law for another; we, on the other hand, would substitute local for national law.

MUNROE SMITH.

The Study of City Government. By DELOS F. WILCOX, Ph.D.
New York, The Macmillan Co., 1897. — xiv, 268 pp.

In this volume Dr. Wilcox has rendered distinct service to the student as well as to the teacher of municipal government. The work does not aspire to the dignity of either intensive investigation or exhaustive discussion, yet it rises above the grade of a high-school text-book. It is an analysis, a classification and a compend of facts, and it covers the whole field. City government in the United States is, of course, the principal concern, but the rich experience of other nations is freely drawn upon. Other men's thoughts on municipal problems are intelligently adduced; but the author also contributes virile thoughts of his own upon the problems he presents. The introductions and conclusions to the various branches of the subject properly comprise a "study" in city govern-

¹ See *Rowan vs. Runnels*, 5 Howard, 134, 139; *Ohio Co. vs. Debolt*, 16 Howard, 416, 432; *Pine Grove vs. Talcott*, 19 Wallace, 666, 677.

ment ; while the fact-filled outline, which makes up the body of the book, may well be termed "a handbook to the study of city government."

The plan followed by the author is "to make a general analysis applicable to the study of government in any of its grades or branches, and to fill in the outline more in detail for the special study of city problems." In pursuance of this plan the whole subject is distributed into three groups: (1) "Problems of Function"; (2) "Problems of Control;" (3) "Problems of Organization."

Politics [says the author], or political science, treats of the methods of fulfilling the functions assigned to the state and its agents. . . . The most useful classification in the study of politics is one that arranges these functions, whether undertaken in one country or another, in the present or in a past age, around certain groups of purposes as conveniently as possible for the illumination of the problems of control and the problems of organization, which together make up the real task of political science.

This tripartite division of the subject as a general scheme is, I believe, unique ; and the differentiation of minor topics under these heads is singularly distinct and complete.

In view of his characterization of the divisions of his subject, we are naturally led to look to the author's presentation of the problems of function as the essentially original and philosophic contribution of his work to current thought. "The functions of government," he says, "may be roughly classed as direct and indirect, or primary and secondary." Under primary functions he includes the exercise of the ordinary police powers and social activities "whose direct and immediate purpose is to promote the general welfare." Secondary functions are "means to some further end," the most important being the raising of revenue, the carrying on of public works and the providing for elections. In attempting such distinctions and classifications there is always the danger, as the author himself says, of making refinements that are "quite scholastic," and I fear that he has not wholly escaped it. Every primary function of government has its ancillary function: every end is attained by means. While there are, it is true, general means, such as the raising of revenue, which are secondary to many ends but are not ends in themselves, it would, nevertheless, be well to emphasize the fact that even the maintenance of a police force, which Dr. Wilcox would call primary, is really secondary to the general welfare.

Of more practical and present interest is the discussion of "business and politics in city government." Dr. Wilcox seems to accept Professor Goodnow's proposition that the city "is always a public, *i.e.*, a governmental, corporation"; but he seems to obscure a corollary to this proposition which Professor Goodnow has thus stated:

In so far as its local and, so to speak, corporate character is emphasized, it will be easier for the municipal electors to give to purely municipal problems the attention they deserve and must have, if municipal government is to be actuated by purely local and municipal motives — if the municipal government is to have regard for municipal needs.

In a period, like the present, of violent controversy on questions of municipal politics, such a work as this must play an important part. As it will be consulted alike by those who seek truth and by those who seek arguments, it cannot be too clear in the statement of principles. In opposing "the cry of 'business, not politics,' in reference to municipal government," and in contending for "the essentially political character of cities," Dr. Wilcox has unfortunately thrown himself open to misapprehension — on the one hand, by those who distinguish between business and gain; and, on the other hand, by those who confuse municipal politics with national partisanship.

As to "problems of control," the city is presented as occupying one of three positions: "It may be a city-state; it may be a grade of local government established by the state in the constitution; or it may be simply the creature and agent of the general government." For breadth of treatment, exhaustive analysis, and wealth of citation this chapter cannot fail to be gratifying to the student of the vexed question of "municipal home rule." In respect to central control, it appears, we have much to learn from European countries. While the author does not pretend to maintain any thesis, the irresistible argument of the facts here gathered is in favor of the development of the now incipient administrative control over local officers in many matters of general concern to the state and of the practical independence of the city in purely local matters.

The "problems of organization" occupy half the book. The new charters that have been turned out of the legislative mill so abundantly in recent years are freely cited in the presentation of the different elements in city organization. Not the least interesting details are those taken from the charter under which the great experiment commonly known as Greater New York will be inaugu-

rated January 1, 1898. The bearing of organization upon municipal politics is logically set forth in the experience of American cities.

The central purpose of political organization [says the author] is to fix responsibility. . . . If democracy is to be a success, all those who participate in sovereignty must have freedom, tempered with a sense of responsibility. The citizen must be organized into the government, and not the government organized over the citizen.

This book is an added proof of its own timeliness. Good city government is the key to the success of democracy in America. With one-third of our population urban, with the constant tendency toward the absorption of suburban territory into the city, and, above all, with the growing demand for the practical freedom of the city to regulate its local concerns, we may say that we are approaching an era of the practical rehabilitation of the "city-state." With democracy dominant and largely insensible to political responsibility, especially in cities, the only safeguard of good government lies in teaching the people how to rule. Such a book as this gives intelligent patriots a fulcrum of fact, by the help of which they can use their influence effectively to raise the tone of citizenship.

COLUMBIA UNIVERSITY.

C. M. LACEY SITES.

State Control of Trade and Commerce by National or State Authority. By ALBERT STICKNEY, of the New York Bar. New York, Baker, Voorhis & Co., 1897. — xiv, 202 pp.

This work embodies a very able argument against the decisions of the New York Court of Appeals and the United States Supreme Court in the cases of *People vs. Sheldon* (139 N. Y. 251) and *United States vs. Trans-Missouri Freight Association* (166 U. S. 290) respectively. Mr. Stickney's main contention is that the common law of neither England nor the United States recognizes as a criminal conspiracy the combination of individuals to raise prices; and that, therefore, a decision that such a combination is either an act injurious to trade or commerce, as was decided by the New York Court of Appeals, or an act in restraint of trade, as was held by the United States Supreme Court, is incorrect from the purely legal point of view. He also believes that these decisions are unwise from the economic point of view. As Mr. Stickney's reputation is chiefly that of a lawyer, his views on the legal aspect of the subject are naturally entitled to the greater weight, and we may with propriety address ourselves to these exclusively.